

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN REINY JABS**, on February 10, 1999 at 3:32 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: Sen. Gerry Devlin (R)

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 232, 2/4/99, HB 217, HB 219
2/5/99, SB 183 2/4/99
Executive Action: SB 327

HEARING ON HB 232

Sponsor: REPRESENTATIVE SAM ROSE, HD 87, Choteau

Proponents: Ralph Peck, Montana Dept. of Agriculture
Denny Perry, USI Inc. & Montana Feed Assoc.

Ray Raihl, Cenex Harvest States/Montana Feed Assoc.

Kim Hager, UAP/Montana Feed Assoc.

John Youngberg, , Montana Farm Bureau

Women Involved In Farm Economics

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE SAM ROSE, HD 87, The feed industry, in cooperation with the Ag Dept., has worked on **HB 232** for at least 18 mos. It amends the current feed law to be more consistent with the Association of American Feed Control officials model bill and requested by the Montana Feed Association. It's been 30 years since there have been any modifications. In keeping with the nation wide trend to reduce or eliminate commercial feed registration and replace it with (Cough, can't hear). This bill promotes uniformity among the state feed programs. It offers a tremendous savings to both the feed industry and the Dept. of Agriculture in terms of time, materials and money currently expended in label submission of the review process. Montana Dept. of Agriculture personnel will be able to perform more field work, including label review of the products actually distributed throughout the state, instead of merely reading labels in their office.

{Tape : 1; Side : A; Approx. Time Counter : 3.35}

Proponents' Testimony:

Ralph Peck, Montana Dept. of Agriculture, We've worked with the feed industry for the last several years in looking at the services to the Dept. of Agriculture in regard to the Montana Commercial Feed Act. The proposals they have outlined and worked on with the Dept. basically provide a more efficient program. It provides the ability for the staff positions they pay for to be in the field working with them, providing better service to the industry. The written testimony walks through the bill in detail. We are fully in support of what is proposed. **SEE EXHIBIT (ags33a01) .**

Denny Perry, Own and operate feed mill in Choteau, This is common sense legislation. It's a win-win deal, good for the Dept. of Agriculture, good for the feed consumer and good for us.

Ray Raihl, Cenex Harvest States, Billings, We've worked together as a group on this piece of legislation for quite some time. It is a revenue neutral, user friendly piece of legislation. It

does eliminate a lot of unnecessary paperwork on registering feed labels. This has gone through with the American Feed Industry Assoc. and is wholly supported by all of the companies. Our membership voted unanimously to support this piece of legislation.

Kim Hager, Director of Nutrition for United AgriProducts, We manufacture feed. I simply would like to say I think this is good legislation for consumers as well as the industry and government. It's common sense.

John Youngberg, Montana Farm Bureau, John Bloomquist of Montana Stock Growers said I could mention their name also. How many times do you have a bill come before you that's going to save money and is good for government? We support this bill.

{Tape : 1; Side : A; Approx. Time Counter : 3.38}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR HALLIGAN Why would you have two separate licenses for someone who is making the same kind of feed and just has two facilities doing it?

Steve Barril, Chief of Field Services, Dept. of Agriculture, The reason a separate license is required for each facility is that a number of business have facilities that are distributed around the state. Each of those facilities requires services from the Dept. in terms of sampling and inspecting. The license not only lets us know where that facility is located but helps fund the services we provide.

SENATOR HALLIGAN Why can't you just tack on extra fees, have one license for those three separate facilities, given the fact you have to provide services to them. The paperwork still has to be submitted to you.

Steve Barril, Yes, it does, primarily to determine who and where the facilities are located.

Ralph Peck, We've got the nursery program in one stop shopping program for licensing. Many of the companies actually will send in and license their facilities, if they have several different locations all in one function, with the Dept. Even though the fee is per facility, we've worked with them very closely to eliminate as much paperwork as we possibly can. They pay by

facility but it may actually come out of one central accounting unit that actually does that for their company.

SENATOR HALLIGAN If we worded that just a little differently, you could put together the application you're talking about where it may simply require a separate application fee because of the facility issue.

Ralph Peck I could certainly work within the industry to try to do that.

SENATOR TESTER Is this cutting paperwork, is it cutting labels off feed packages, where are we saving with this?

Ralph Peck The industry has really worked in trying to update the Montana law. Currently, our staff person in the Dept. of Agriculture reviews all the labels that come in and spends a lot of time sitting at their desk in Helena. We would like to get that person out servicing the industry, doing the sampling, inspection and services to be sure they are complying with the law. We took a look at the whole act in the Dept. to be sure that the dollars spent are providing the services the citizens of Montana want from their Dept. of Agriculture. After a couple of years, we designed this bill so that we get the person in Helena out from behind that desk and out working with the industry for inspection, certification and sampling activities. It's a better benefit for the dollars spent.

SENATOR TESTER Is there going to be any difference to a person buying this commercial feed as far as him or her knowing what's in it?

Ralph Peck No, probably not from the individual buying it. The industry providing the feed to the consumer will probably feel they are actually having more service from the Dept. of Agriculture because they're going to see us and have more samples to provide.

SENATOR MESAROS You're adding administrative civil penalty in Section 12, increasing the amount and saying the Dept. may, by rule, establish a penalty matrix. Could you expand on that, the civil aspect of the civil penalty and what that penalty matrix may be.

Ralph Peck This is targeted after what we have done with the seed and pesticide laws that allows for action if you find a violation. You start with an initial warning. If it's not corrected, then by rule we would establish some matrix. Depending on the intensity of the violation, the next one may

cost you \$50 or \$100. If the same violation occurs again, you would have the next matrix step up of which an individual then knows what the penalty is going to be under civil penalties. It might cost you \$200. That's the kind of matrix we've set up for seed and for pesticide program and have a lot of success in it.

They still have the right to go through the hearing process. They can appeal to the Director of the Dept. of Agriculture and ask for a hearing with us, if they are unsatisfied. If they still are unsatisfied, we can go through the legal process with court through the Administrative Procedures Act. The the intent is to be able to handle that without going through a court proceeding on each one of these. We can still go through the court process with the civil penalty section if they feel our investigation hasn't represented their rights.

Now all seeds must be registered with the Dept. and this statute eliminates that. It eliminates a lot of paperwork the industry has said isn't necessary. Let's make it revenue neutral and eliminate paper shuffling.

CHAIRMAN JABS When you manufacture feed, they tell you what's in it and you then check it to make sure. How often do you check after that, is it spot checked?

Ralph Peck That's correct. They put the label on the feed and then we do random samples to be sure what is on the label is actually in that product, both for the consumer and the competitor that's trying to compete with this. It forms a level playing ground.

Closing by Sponsor:

REP. SAM ROSE In reply to **SENATOR HALLIGAN's** question, it will come under one application eventually. We just started to move away from our original trial. We're moving in the right areas now. **HB 232** is more or less a deleting bill and **HB 217** and **HB 219** fit within the program.

{Tape : 1; Side : A; Approx. Time Counter : 3.48}

HEARING ON HB 217

Sponsor: REPRESENTATIVE SAM ROSE, HD 87, Choteau

Proponents: Ralph Peck, Montana Dept. of Agriculture

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE SAM ROSE, HD 87, HB 217 increases the license fee from \$25 to \$50 annually for the renewal of commercial feed manufacturers and distributors. We're making the attempt to help offset the costs, maybe make it smaller, cost efficient and without putting a hardship on the Dept. of Agriculture. As was indicated, this is to try to save time, money and material. The reason **HB 217** and **HB 219** are broken off is as we all know, CI 75. They should be included in **HB 232**.

Proponents' Testimony:

Ralph Peck, Montana Dept. of Agriculture, This is meeting the requirements of the Constitution to submit fee increases provided in **HB 232** before the electorate. All these bills are specifically for that purposes, to allow them to be placed on the ballot in regard to what happened with CI 75.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR TESTER One sets it at \$50 and one sets it at \$75? It's the same license, **HB 217** and **HB 218**.

REP. ROSE One is for a new applicant, one is renewal.

SENATOR EKEGREN If they're trying to save money, why do they have to double fees.

REP. ROSE We're trying to make them more self sufficient without taking out of General Fund or Dept. of Agriculture budget. If we can get somebody out in the field instead of having them sit in the office and read labels, that's a savings.

SENATOR TESTER This isn't going to raise near as much as it's going to cost to put it on the ballot.

REP. ROSE That's why **HB 218** is dropped.

SENATOR TESTER What about **HB 217**? Is it any different up above?

REP. ROSE **HB 217** increases the annual license from \$13,000 to \$26,000. This is using 523 licenses at \$25 raised to \$50. The net increase in revenue is \$13,075. That would pay for itself

roughly in two years. In **HB 218** the net increase is \$2,000, it would take 15 years to pay its way and that's not good business.

SENATOR MESAROS I have some similar bills that require fiscal notes. Wouldn't fiscal notes accompany these?

REP. ROSE No, we had no fiscal notes with these at all.

SENATOR TESTER Wouldn't the fiscal note deal with what it costs to run it on the ballot? There is an impact to the General Fund because it costs some pretty wild numbers to run these ballot issues.

REP. ROSE We've heard anything from \$26,000 to \$32,000.

SENATOR TESTER And I think that's why **SENATOR MESAROS** had a fiscal note with his.

SENATOR JERGESON Angela Fultz from the Secretary of State's office is here if anybody has any questions related to cost of running these elections. There must be a point at which the marginal cost of each additional measure that goes on the ballot is less? If you get a 500 page book to send out, would we be able to negotiate a different and lower cost?

ANGELA FULTZ That would be our hope. We have no way to know. We've never had a voter information pamphlet the size we're anticipating this one to be. Even if the pages were to be reduced, we're still looking in the 500 to 600 page range with the number of fees being presented. The production cost may go down but the mailing cost may go up and offset it the other way.

There should be fiscal notes on every bill that has a question about CI 75 and I noticed these two don't. I'll find out from the budget office why, they requested them through us, how many pages it would be in the voter information pamphlet.

Closing by Sponsor:

REP. ROSE I close on **HB 217**. I recommend we table **HB 218**.

{Tape : 1; Side : A; Approx. Time Counter : 3.51}

HEARING ON HB 219

Sponsor: **REPRESENTATIVE SAM ROSE, HD 87, Choteau**

Proponents: **Ralph Peck, Montana Dept. of Agriculture**

Opponents: **NONE**

Opening Statement by Sponsor:

REP. SAM ROSE, HD 87, HB 219 increases the inspection fees from .15 cents a ton to .18 cents a ton. Currently this fee is established by rule making. In fact, at one time they had a deviation from .03 cents to .25 cents they would work in this particular area. Now it has taken the latitude away from the producers to do this. If **HB 219** passes and is approved by the voters, it will be an increase in the inspection fee to help make up for the loss in funding provided from registration. That loss would roughly be revenue neutral between now and the funding.

We sent this to 35 Ag organizations in the state. They all looked at it and we haven't had any adverse feedback from it. The whole principle here is to try to upgrade our ??COUGH?? in the State of Montana and also to try to become more self sufficient. The inspection went from \$55,800 to \$66,960. This is using 372,000 tons of feed at .15 cents. Moving it to .18 cents per ton would increase revenue around \$11,000.

Proponents' Testimony:

Ralph Peck, Dept. of Agriculture, When **HB 232** came out, they said we needed three CI 75 pieces of legislation. This is the third one and again, it was designed to be revenue neutral to eliminate having to put a registration on each product. This is the tonnage increase that was proposed in the legislation.

Opponents' Testimony: **None**

Questions from Committee Members and Responses:

SENATOR JERGESON Do we have to amend **HB 232** then to reflect tabling **HB 218**?

Doug Sternberg Yes, we do.

SENATOR TESTER What if we amend that and CI 75 is thrown out?

Doug Sternberg That would be an option. The votes are required under the Constitution now and I'm sure you're all aware that Constitutionality has been challenged. Pending some decision by the Supreme Court, we'll know what provisions of that measure remain intact. If CI 75 is invalidated, a number of fee provisions now traveling around as separate measures might be

incorporated back into the main body of the bill and the fees would be raised the old way, either by statute or by rule.

SENATOR TESTER I don't oppose any of these fees, because they're dictated by the industry and the industry has a right to do that to themselves. In the end, when we have a bunch of bill measures and it comes out in the Tribune that we spent \$30,000 to collect \$2500, that might not be reflective on a very smart fiscal analysis of the situation.

REP. ROSE That's why we dropped **HB 218**. You can see this is the first one to hit the floor in the House with the CI 75 in it and if you don't think I didn't have fun over there, especially with a three cent fee increase.

Doug Sternberg These bills have all passed the House, they've all met transmittal deadline. If this committee decided to hang on to these bills for a little while and see how CI 75 shakes out, that can be done in this case. If that act is invalidated, we can amend **HB 232** to build those fees right in.

CHAIRMAN JABS The costs of these initiatives will be born by the General Fund, but the people will get the money immediately, right?

SENATOR TESTER If we were to hold onto these for a period of time, how do you feel about it, **REP. ROSE**?

REP. ROSE That would be an excellent idea. There's been a lot of work already on this and let's not do anymore if it's just going to get thrown out.

Closing by Sponsor: NONE

{Tape : 1; Side : A; Approx. Time Counter : 4.06}

HEARING ON SB 183

Sponsor: SENATOR LINDA NELSON

Proponents: Ralph Peck, Montana Dept. of Agriculture
David Sagmiller, Montana AgriBusiness Assoc.
Steve McDonnell, Montana Seed Trade Assoc.
Mike DeVries, Western Plant Breeders
John Youngberg, Montana Farm Bureau, Women
Involved in Farm Economics
Kerry Shaefer

Ron DeYong, Montana Farmers Union
Randy Johnson, Montana Seed Growers Assoc.

Opponents: **None**

Opening Statement by Sponsor:

SENATOR LINDA NELSON, This bill updates and strengthens the Montana Agricultural Seed Law and provides adequate resources to the Dept. of Agriculture to administer the program. This legislation was recommended as the result of the 2005 Task Force on Agriculture. The bill was developed in support of the Montana Seed Trade Assoc., Montana Seed Growers Assoc., Montana Grain Growers Assoc., Montana Farmers Union and others. It strengthens the prohibition against selling seed contaminated with noxious weed seeds as designated under the County Noxious Weed Control Law. The bill clarifies who needs the license, and with the proposed amendments, will allow farmer to farmer sales of up to \$5000 without a license. The in state licensing fee increases requiring a CI 75 vote have been omitted.

A new section will establish an assessment paid by out of state dealers on Ag seed sold in Montana in an effort to equalize costs by all who will benefit from the program. The legislation repeals complicated labeling requirements but does require labeling for all sales. The labeling is a simple standard for seed labels and allows the Dept. of Agriculture some flexibility in establishing requirements for special situations. **SB 183** will assure that seed sold in Montana is of high quality, protecting the seed industry and Montana growers. I have a number of amendments Doug has prepared that I'll pass out. **SEE EXHIBIT (ags33a02) .**

Proponents' Testimony:

Ralph Peck, Montana Dept. of Agriculture, read written testimony. **SEE EXHIBIT (ags33a03) .**

David Sagmiller, Montana AgriBusiness Assoc., served on 2005 Task Force. Our recommendation was to preserve the integrity of the Plant Variety Protection Act and modify our current seed law to fit developing technologies. Prior to 1970, plant breeding work was primarily undertaken at state agriculture experiment stations.

Advances in breeding, as well as European nations banding together in 1961 to protect new varieties of plants developed in Europe, led to the passage of the federal Plant Variety Protection Act. In 1970 the Plant Variety Protection Act

encouraged research in the U.S. by the private sector, producing more new varieties for growers because it helped assure companies could protect their investment and make a reasonable profit. The 1994 amendments to PVPA further refined it, closing loopholes that threatened future seed development.

Montana has failed to keep pace. Our antiquated law still relies on Montana State University developing varieties we need at agricultural experiment stations. With fewer tax dollars available today and more crops being grown in Montana, the necessary research is not possible with public funding alone.

Montana is known nationally among seed breeding companies as a lousy place to do business. These companies say they cannot afford to allow their seed to be sold in Montana. These are major seed companies as well as private seed breeders like those in Bozeman. They do not want to get twenty cents back on the dollar on their investment when they develop a new variety and can restrict where their seed may be distributed. A grower may not be able to buy seed in Washington for planting in Montana because of restrictions. The challenge is to update our seed law to assure we can get new varieties of quality seed to help our growers compete.

The Dept. of Agriculture reports the majority of the complaints it receives involve farmer to farmer sales exempted from the current law. Given the consequences of seeding bad or poor quality seed in already tough economic times, the old "let the buyer beware" doesn't seem appropriate. Lawsuits hardly seem like an answer either. We need to assure protection against poor quality seed. We leave ourselves open to being a dumping ground for rejected seed from other states. Other seed laws recognize the economic advantages of increased yields, resistance to pests and new varieties with qualities buyers of grains and other ag commodities want, like decreased input cost a RoundUp ready seed can provide. We need to help Montana growers be on a level playing field with other states, particularly as agriculture moves more into biotech.

Steve McDonnell, Montana Seed Trade Assoc., Passed out exhibit. **SEE EXHIBIT(ags33a04).** This legislation requires that everyone labels the seed they sell. Montana growers will need to obtain a license as a seed dealer when they exceed \$5,000 of sales. Those of us in the commercial seed business would like to have everyone who sells seed in any amount be licensed, but we realize that's probably not going to happen. Out of state dealers need to be licensed to do business in the State of Montana. **(TURNED TAPE)**

The labeling section is probably the most controversial part. The labeling simply requires basic who, what, when and where. Bin run seed sales of commodity grain and seed would be eliminated. This is the way the law is in surrounding states, they all require labeling with no exceptions. Seed could be sold from the bin but it must be labeled as to what it is and who is selling it.

This legislation begins to bring Montana up to the standards of other states. It helps prevent dumping poor quality seed in this state. I assure you there's off grade stuff coming into Montana that can't be sold in other states and can be sold here. It's a start to protecting against pirating Plant Variety Protection seed.

There are large seed companies which should be doing business in our state and allowing products that are good for our producers to be available for sale. They won't do business here because of past experience. I was personally affiliated with Pioneer Hybrid. Ten years ago Pioneer Hybrid had an extensive seed production program in Montana. The issue of brown bagging was so severe Pioneer simply ceased doing business in Montana.

This bill improves our state's reputation in the seed industry. Yesterday the new issue of Farm Industry News had a lengthy discussion of seed issues. It brought up the name of one state, Montana, as an example of poor seed laws and an issue of brown bagging. We need the new seed varieties and the new types of biotech that are going to be available in this state, not just for seed companies but for all of agriculture.

Mike DeVries, Western Plant Breeders is a private plant breeding company based in Bozeman, spending over one and a half million dollars annually in Montana in our efforts to develop grain varieties for Montana growers. Western Plant Breeders serves as a cereal grain research company for 26 seed companies in four western states. Six of these associate seed companies are in Montana. Changes proposed in **SB 183** will strengthen the seed industry in Montana. Growers will be the beneficiary of better labeling and high purity quality seeds. The changes will spur additional research expenditures in Montana by private firms because they have greater assurance of a fair return on their investment. Herbicide resistant wheats are on the near horizon.

Before seed companies can provide these new production tools to growers, they must be confident that Montana's seed industry is ready to handle these advanced products. The Montana seed industry presently lacks seed inventory capacity and labeling requirements sufficient to properly handle herbicide resistant varieties. Carefully coordinated seed production, accurate

inventories and correct labeling will be crucial for safe effective use of these new varieties. Can you imagine the liability faced by a seed company or an applicator if a mixture of Round Up ready wheat and non Round Up ready wheat were sprayed with Round Up.

John Youngberg, Montana Farmers Union and Women Involved in Farm Economics, We were all involved in Vision 2005 program. The goal of that program was to double the value of agriculture. We realized during those meetings that it's pretty hard to do if we can't bring in some of the new plant varieties that are being developed by private breeders outside the state. They won't do business here. This bill brings our laws into better coordination with the other states.

Kerry Schaefer, Regional Manager for General Mills Grain, handed out written testimony. **SEE EXHIBIT(ags33a05).**

Ron DeYong, Montana Farmers Union, Producers had two trains of thought in developing this bill. They wanted to set up an environment that encourages seed companies to bring in high quality seed and new varieties. On the other hand, producers are still independent and didn't want to go through a lot of government regulation if they were going to sell a little seed to a neighbor. This bill strikes a balance. From the producer's standpoint, they can no longer take bin run grain and sell to a neighbor with no guarantees. Now it has to be labeled. It's good for both the buyer and seller. They'll need a license if they sell over \$5,000.

Randy Johnson, Montana Grain Growers, submitted a letter from Terry Grass, President of Montana Seed Growers' Assoc. **SEE EXHIBIT(ags33a06).** There was a huge trade show at our National Association of Wheat Growers Convention last week. It was sickening to go to that show and see the number of seed companies that are operating private breeding programs in other states which will not come to Montana. We want this legislation so that the seed industry will see fit to operate in our state. We are trying to run a state breeding program at the University of Montana, financed to the tune of \$160,000 per breeding program, winter wheat, spring wheat and barley. That pittance of money can not keep up with the technology and provide us with varieties quick enough to keep up with the times and keep us competitive here in Montana.

We are unhappy with the amendment that raises exemption to \$5,000. We think that does damage the bill to some extent.

Opponents' Testimony: NONE

{Tape : 1; Side : B; Approx. Time Counter : 4.30}

Questions from Committee Members and Responses:

SENATOR MESAROS At the bottom of page 4, you have "genuine growers declaration". Define genuine.

Steve Barril, Dept. of Agriculture, It's a genuine declaration. This is a term straight from the Recommended Uniform State Seed Law, the written declaration that accompanies the grower's seed.

SENATOR MESAROS, Page 9, line 9, refers to the exemption, \$1,000 with amendment raising to \$5,000. How do you determine value?

Steve Barril I think we would determine the value of the seed at the time of sale. I would assume that is the sales receipt.

SENATOR MESAROS The amendment raises the exemption \$5,000. Has there been discussion about having a measured unit value rather than a dollar value? Most producers use X amount of winter wheat seed. In rural Montana, neighbor X sells to neighbor Y, producer X sells to neighbor Y, currently the proposed exemption is at \$5,000. At current value, that's about \$3.00, that's about \$1666. If we get a temporary spike in the market, it jumps up beyond that and lowers the quantity that can be moved.

Steve Barril I'm not aware of any discussions we had regarding something else besides setting the \$5,000 value.

Ralph Peck, Dept. of Agriculture, We had some discussion on that and the question came, how do you handle alfalfa seed versus canola seed versus grain versus peas and lentils. Pounds or bushels, you'd have to identify it for each different commodity. We talked about bushels on grain, but when you get into alfalfa seed or canola, we got into a lot of controversy so we thought the easiest way was to identify it by dollar.

SENATOR MESAROS It's common in rural Montana that all of a sudden you get a spike in the market and you go over the 1,000 at \$5 and unknowingly, this producer is out of compliance and in violation.

Ralph Peck We have to use good common sense and reason. You could take the average price for the year and the number of bushels or pounds of alfalfa seed sold and realize that an individual made that sale based on the price at that time. There really would be, I think, compliance with the intent of the statute. Our hope is we'd use that kind of good common sense.

We think the main task in the Dept. is going to be education so that people understand the parameters of the law.

SENATOR JERGESON The mantra has often been that reducing government regulations would be an invitation for businesses to locate or operate in the State of Montana. Should we find a bit of irony in this bill that, in fact, an increase in the amount of government regulation is an invitation for firms to operate in and do business in Montana.

Randy Johnson First, a response to **SENATOR MESAROS's** question. I would submit to you that if we get a \$6 spike in the price of wheat, my members are going to be happy to buy a \$50 license. Our resolutions call for a reduction in regulations; yes, that's one of our primary goals. There are times when that doesn't work and this is one of those. To make things work better, we have to have a few more rules. We don't like to pay for higher seed, we don't like new licenses, but if we're going to have more and better seed that's what we have to do.

SENATOR TESTER If I'm selling seed to a seed dealer, do I need to buy a license if it's over \$5,000?

Ralph Peck No. If you are a producer selling to a dealer, you are not selling into the retail market.

SENATOR TESTER Does the genuine declaration go if I sell to a dealer?

Ralph Peck I believe again, it's the commodity. That seed dealer needs to understand what he's buying. You are not selling it into the retail market, but I'm sure you're going to have a very good understanding with the seed dealer what they are buying, and it's probably going to be specified in the contract.

SENATOR TESTER If I have two kinds of peas and a guy wants to buy them for a hay mix, how do I give a genuine grower declaration?

Ralph Peck I think you would identify what you had in there. It was designed to make it very user friendly and you would identify what you had in there.

SENATOR TESTER If we increase fees for out of state people, does it have to go to the vote of the people.

Angela Fultz No. CI 75 is very specific that the election has to be on the fees within the State of Montana.

SENATOR TESTER Will genetically modified seeds reproduce?

??????? Yes. It's a very complex issue. If they could hybridize a lot of seeds from some specific varieties easily, a lot of these issues like chemical resistant varieties would be solved. It replicates that as the seed reproduces.

CHAIRMAN JABS If you sell more than \$5,000 you have to have a license, if you sell any amount you have to have a label on it. If my neighbor says he has 50 bushels of winter wheat left, can you use it, does he have to give me a written statement of what's in there?

Steve McDonnell Technically, under the letter of the law, yes. It does not have to be complex. This legislation would say that if you sold your neighbor a truck load of seed, you would have to put a label on it.

SENATOR BECK If I sold my neighbor a truckload of grain as feed for his hogs and he turned around and seeded it, that's a whole different ball game?

Steve McDonnell That goes back to what Ralph Peck said, about common sense. We can't legislate against everything.

SENATOR BECK If I sell it to my neighbor and I say it is seed, then I better have germination tests, noxious weed tests.

Steve McDonnell You would have to at least say what it is and you would have to represent what you say the germination and whatever other qualifications are about it.

Closing by Sponsor:

SENATOR NELSON The proponents were very organized and answered questions well so I don't need to do a lot of closing. The big things people would be concerned about are the labeling and the farmer to farmer sales. The compromise going up to \$5,000 took care of a lot of the concern on this, even though it's not what the seed dealers would like. They were willing to compromise on that. The labeling doesn't have to be an onerous thing. It sounds like it's about as simple as it can be too. It's time for this to come into the state. I think we've considered this many times before in a different form and I've not been a supporter myself. We need to move into today's modern progressive world and it's time we go forward with this and see how it works out.

{Tape : 2; Side : A; Approx. Time Counter : 4.48}

SENATOR JERGESON I made a motion at our last meeting that we request a drafting of a committee joint resolution related to the petition that's being circulated and submitted to members of Congress about the farm economy. That motions passed. Doug has come up with an initial draft we may want to review and indicate any modifications.

Doug Sternberg Distributed drafts. SEE **EXHIBIT (ags33a07)**. I took the rough copy of the petition and put it into all the suitably proper resolution kind of language and tried to get it squared for you. This covers the basic underlying parts of the petition.

Discussion was held and it was decided to get this resolution started through the process. It will be drawn up by Friday, 1/12.

{Tape : 2; Side : A; Approx. Time Counter : 4.56}

EXECUTIVE ACTION ON SB 327

Motion: SEN. TESTER moved that **SB 327 DO PASS.**

Doug Sternberg There were some amendments submitted. **(CHANGED TAPE)** can explain the amendments if there are any questions. As the bill was initially drafted, it increased the fee for rerecording a livestock brand from \$50 to \$100. The amendments clarify that the fee increase applies to recording, rerecording and transferring a brand. Section 2 puts the language into a referendum form.

Motion/Vote: SEN. MESAROS moved that **AMENDMENTS TO SB 327 BE ADOPTED. Motion carried unanimously.**

SENATOR HOLDEN What's the reason for the increase?

Mark Bridges, Dept. of Livestock, The Board requested the agency to analyze fees based on costs. We used the same criteria Les Graham did in 1990 when it went from \$35 to \$50. Data processing increased the costs. It costs us \$93.30 for 10 years, \$9.33 per year to maintain those brands in that system.

SENATOR BECK Once you have into the data system, you have them all in there right now, it's just a matter of replacing one, pulling it out. Most of it is done right now, isn't it?

Mark Bridges It is. I don't know when it tipped over from \$49.67, to be exact, between 1990 and now. When we started into data processing, we haven't been into it that many years, our terminal charges in 1990 were \$2.00 and now they're \$10.16. The

board is going to be analyzing that also. In essence, you're correct. We do have to do some data entry work on a transfer.

SENATOR BECK How many brands are recorded in Montana?

Mark Bridges The \$93.40 figure is based on 27,500.

SENATOR JERGESON Even though computer costs might be relatively small over a period of time, you have fixed costs in space where you have to house the records, all those things have to be calculated into the cost of a brand rerecord, even though when I send in my rerecord notice and my check, the immediate processing might not take a lot of time but you have fixed costs in running the Department that have to be applied to this program.

SENATOR EKEGREN Do you send out notices on your brands every ten years?

Mark Bridges In December 2000 we will batch all the rerecord notices out and probably about July we'll start flooding the airwaves regarding address changes. Between now and rerecord, if someone wants to come in and transfer their brand, unless it's a legal necessity we encourage them to wait until 2001, and we'll transfer and rerecord for the one fee at the same time.

SENATOR JERGESON There are times I've wondered whether those people who keep the brand for trading shouldn't be charged a little more if they aren't going to actually going to stick it on a critter and are using it as a piece of property they speculate with.

SENATOR MESAROS Do you have an idea how many active brands there are?

Mark Bridges The board discussed this. We've come to an area, especially with this hide issue with packers and feeders on rib brands, of trying to get some good recordable brands back out to the industry to be used for their real purpose. The board has adopted some policy on recording ornamental brands. I continue to record a family brand but I give up the position it's on. The department will record a brand as an ornamental or heritage brand for the same fee, but that position is there for a producer to pick. In that way, I've lost the recording history from 1885.

SENATOR MESAROS The day is rapidly approaching if it's not already here as far as discounting for rib brands. Do you anticipate efforts to free up those brands for those locations?

Mark Bridges I do. The board is very optimistic about it also. Right now people who own brands and would like to switch position from the right rib to a hip but they can't. In the last rerecord process there were probably 16,000 brands that weren't picked up and we've probably issued them out in the last ten years. I think the board is going to introduce some policy that will have some criteria set for genuine livestock producers. Maybe they'll have to show proof of paying per capita tax or something like that to get those brands out in actual use.

CHAIRMAN JABS Some states have a lower fee but they charge more for inspections. But inspections go directly to the inspector, don't they? None of that goes to the state, does it?

Mark Bridges A percentage of it goes to the state. Market fee inspection goes to the state. Our personnel will also go out and do local inspections. Our employees of the Department have to remit those fees back to the Department. For the 400 odd deputy stock inspectors, that fee is theirs.

CHAIRMAN JABS Some people have 10 cows or 1 cow and some have 10,000, if have these 10,000 people pay a little more, raise your fee on inspections and keep this fee down.

Mark Bridges The other reason why some of those fees in other states are reduced for recording brands is because it's only for 1 species and Montana is for 3 species.

Motion/Vote: SEN. TESTER moved that SB 327 DO PASS AS AMENDED.
Motion carried unanimously.

ADJOURNMENT

Adjournment: 5:16 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags33aad)